

ORIGINAL

**IN THE DISTRICT COURT OF BECKHAM COUNTY
STATE OF OKLAHOMA**

STATE OF OKLAHOMA,)
)
Plaintiff,)
)
vs.)
)
KENNETH HAROLD TIBBETTS,)
Defendant.)

APPEAL CASE NO.: _____
DISTRICT COURT CASE NO.: CF-2015-188

TYPE OF APPEAL

- () Direct Felony Appeal
() Direct Misdemeanor Appeal
(XXX) Certiorari
() Revocation/Acceleration
() Termination from Drug Court
() State Appeal – 1089.1 – 1089.7
() State Appeal – 1053/1053.1
() Juvenile – Adjudication
() Juvenile – (Certification)
() Juvenile – (Reverse Certification)
() Youthful Offender – (Sent. as Adult)
() Youthful Offender – Bridge to DOC
() Other (specify) _____
() CAPITAL
() NON-CAPITAL

BECKHAM COUNTY
FILED
MAY 18 2016
DONNA HOWELL COURT CLERK
BY DEPUTY

NOTICE OF INTENT TO APPEAL:
ORDER DETERMINE INDIGENCY, APPEALATE COUNSEL,
PREPARATION OF APPEAL RECORD, AND GRANTING TRIAL COUNSEL'S
MOTION TO WITHDRAW; COURT REPORTER'S ACKNOWLEDGEMENT; AND
NOTIFICATION OF APPROPRIATE APPELLATE COUNSEL, IF APPOINTED

I. NOTICE OF INTENT TO APPEAL

The Defendant was sentenced on the 11th day of May, 2016, for:

If certiorari appeal, date of trial court's denial to withdraw plea May 11, 2016.

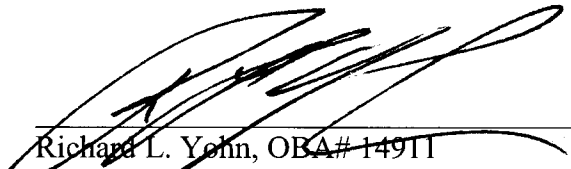
<u>Crime(s)</u>	<u>Statute</u>	<u>Sentence</u>
Robbery With a Weapon	21 O.S. §801	Life
Possession of Firearm After Former Felony Conviction	21 O.S. §1283(A)	10 years
Kidnapping	21 O.S. §741	Life
Kidnapping	21 O.S. §741	Life
Attempted Robbery w/ Dangerous Weapon	21 O.S. §801	Life
Attempted Robbery w/ Dangerous Weapon	21 O.S. §801	Life
Possession Firearms After Conviction or During Probation	21 O.S. §1287	10 years

EXHIBIT 7

The sentence(s) was/were ordered to run () concurrently () consecutively as follows:

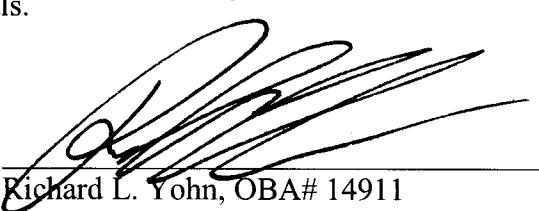
Counts 5 & 6 concurrent with each other, but consecutive with Count 1, and Counts 2, 3, 4, and 7 concurrent with each other and with Counts, 1, 5, and 6, on the seven-count information.

The Defendant intends to appeal the above conviction(s) to the Oklahoma Court of Criminal Appeals pursuant to **Rule 1.2.A(2)** (cite specific statute). This notice of Intent to Appeal and Designation of Record, attached as Exhibit "A", pursuant to Rule 2.5(B) of the *Rules of the Court of Criminal Appeal*, Ch. 18, App., of Title 22, was filed with the clerk of the trial court within ten (10) days of the date of the pronouncement of the Judgment and Sentence in this case and constitutes a valid initiation of a direct appeal in accordance with the Court of Criminal Appeal Rule 2.1(B). The Defendant further requests that this original record and transcripts be prepared in accordance with the completed Designation of Record, attached as Exhibit A. To assist in the expediting of the appeal, an advisory list of propositions of error, if any, deemed viable by trial counsel, signed by a trial counsel (if trial counsel will not be attorney on appeal), is attached as Exhibit "B".



Richard L. Yohn, OBA# 14911
OKLAHOMA INDIGENT DEFENSE SYSTEM
823 Frisco Ave.
P. O. Box 1494
Clinton, OK 73601
580-323-2951 Fax: 580-323-0982
Rick.Yohn@oids.gov.ok
Motion Attorney for Defendant

A true and correct certified copy of the Notice of Intent to Appeal and the Designation of Record with acknowledged receipt by the Court Reporter(s) were mailed this 18 day of May, 2016, to the Clerk of the Oklahoma Court of Criminal Appeals.



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Motion Attorney for Defendant

II. APPLICATION FOR DETERMINATION OF INDIGENCY

In accordance with Rule 1.14 of the *Rules of the Court of Criminal Appeals*, 22 O.S., Ch. 18, App., the Defendant submits that he/she is indigent and cannot pay the costs of an appeal. Counsel states:

(XX) Indigency has been previously determined by this Court or its designee, and a pauper's affidavit in accordance with Rule 1.14(A) will be provided if this Court elects to review the Defendant's status.

() Indigency has not been previously determined by this Court or its designee, and a pauper's affidavit in accordance with Rule 1.14(A) is attached as Exhibit "C".

It is requested that appropriate counsel be appointed and transcripts be prepared at the expense of the State.

III. DETERMINATION OF INDIGENCY

Pursuant to Rule 1.14 of the *Rules of the Court of Criminal Appeals*, Ch. 18., of Title 22, this Court finds the Defendant **(XXX) IS () IS NOT** currently indigent.

THE COURT ORDERS:

A. Preparation of the Appeal Record:

1. A record of this case **(XXX) IS () IS NOT** to be prepared at public expense.
2. The court reporter(s) listed below **(XXX) SHALL () SHALL NOT** be reimbursed at public expense out of the Court Fund of Beckham County for preparation of this record.

NAME:	Rebecca Storm	Darla Riley	Darla Riley
Mailing Address:	POB 72 Sayre, Ok 73662	POB 72 Sayre, Ok 73662	POB 72 Sayre, Ok 73662
Transcript Type:	Plea	Judgment & Sentence	Hearing On Application to Withdraw Plea
Transcript Date:	2/10/2016	3/30/2016	5/11/2016

3. Return to the trial court clerk all transcripts prepared at state expense during the course of the trial proceedings. These transcripts shall be returned within ten (10) days from date of sentencing. Rule 3.2(E).

B. IF INDIGENT

1. Alicia Sorelle, trial counsel for the Defendant, timely completed the Application to Withdraw Plea of Guilty. Richard L. Yohn, **OKLAHOMA INDIGENT DEFENSE SYSTEM**, was appointed by the trial court to represent the Defendant for the Application and has completed this Notice of Intent to Appeal and has timely filed a Designation of Record.
2. The court reporter(s) has/have been served with a copy of the Designation of Record.
3. Appropriate transcripts have been ordered at public expense.
4. **Cindy Danner**, () CHIEF, CAPITAL DIRECT APPEALS DIVISION OF THE OKLAHOMA INDIGENT DEFENSE SYSTEM (if the death sentence was imposed) **(XX) CHIEF OF THE GENERAL APPEALS DIVISION OF THE OKLAHOMA INDIGENT DEFENSE SYSTEM** (if death sentence was not imposed)
() PUBLIC DEFENDER OF TULSA COUNTY
() PUBLIC DEFENDER OF OKLAHOMA COUNTY
() A PRIVATE ATTORNEY

Is appointed to represent the Defendant on appeal. (The public defender of Tulsa County and Oklahoma County may only be appointed if that office represented the defendant at trial unless a conflict of interest exists as determined.)

ADDRESS: _____

TELEPHONE: _____

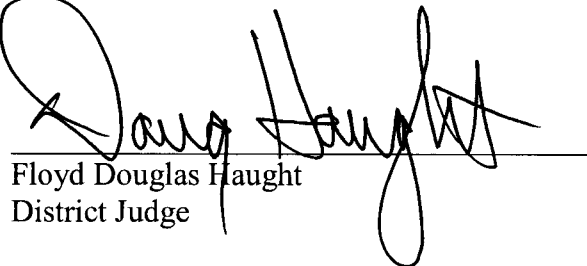
5. Any Supplemental Designation of Record by the Oklahoma Indigent Defense System pursuant to Section 1362 of Title 22 must be filed and served upon the appropriate court reporter(s) within thirty (30) days from the date of appointment, and the reporter's acknowledgement of service shall be filed in accordance with Rule 1.15(B): 2.1(B)(3).
6. Alicia Sorelle has already withdrawn. Richard L. Yohn, **OKLAHOMA INDIGENT DEFENSE SYSTEM**, trial counsel on Application for Withdrawal of Plea for the Defendant, is permitted to withdraw as counsel of record.
7. Cases in which death penalty imposed: _____, Chief of the Capital Post-Conviction Division of the Oklahoma Indigent Defense System, is appointed to represent the defendant on the filing of an application for post-conviction relief in accordance with the provision of §§1089 and 1356 of Title 22.

C. IF NOT INDIGENT:

1. _____, trial counsel for the Defendant, timely completed this Notice of Intent to Appeal and has timely filed a Designation of Record.
2. The court reporter(s) has been served with a copy of the Designation of Record.
3. _____, has entered his/her appearance and will represent the Defendant on appeal as retained counsel.
4. _____, trial counsel for the Defendant has filed a Motion to Withdraw as Counsel. The Motion is granted and trial counsel is permitted to withdraw as counsel of record.

IT IS SO ORDERED.

This order signed this 18 day of May, 2016


Floyd Douglas Haught
District Judge

NOTE: A NOTICE OF INTENT TO APPEAL AND DESIGNATION OF RECORD MUST BE FILED WITHIN TWN (10) DAYS FROM THE DATE THE SENTENCE IS PRONOUNCED IN OPEN COURT WITH THE CLERK OF THE TRIAL COURT. THIS NOTICE AND DESIGNATION IS JURISDICTIONAL AND FAILURE TO TIMELY FILE CONSTITUTES WAIVER OF THE RIGHT TO APPEAL. A CERTIFIED COPY OF THIS NOTICE AND DESIGNATION SHALL ALSO BE FILED BY TRIAL COUNSEL WITH THE CLERK OF THE COURT OF CRIMINAL APPEALS WITHIN TEN (10) DAYS FROM THE DATE THE NOTICE IS FILED IN THE TRIAL COURT. NO TRIAL ATTORNEY MAY BE GRANTED PERMISSION TO WITHDRAW, IF THE DEFENANT DESIRES TO APPEAL, UNLESS THESE DOCUMENTS ARE FILED. IF THE DEFENDANT DOES NOT WISH TO APPEAL AND ACKNOWLEDGED BY THE TRIAL JUDGE WITH THE CLERK OF THE DISTRICT COURT, BEFORE TRIAL COUNSEL IS ALLOWED TO WITHDRAW, ASSERTING THAT THE DEFENDANT HAS BEEN FULLY ADVISED OF HIS/HER APPEAL RIGHTS AND DOES NOT WISH TO PURSUE AN APPEAL OF THE CONVICTION. *See* Rule 1.14(D).

IV. COURT REPORTER'S ACKNOWLEDGMENT

- A. The Designation of Record, attached as "Exhibit A", was received on the _____ day of _____, 20 ____.
- B. IF NOT INDIGENT, satisfactory arrangements () have () have not been made for payment of transcript costs. These financial arrangements were complete on, the _____ day of _____, 20 ____.
If payment has not been made/arranged, explain why:

- C. Number of trial and/or hearing days: _____
- D. Estimated number of transcript pages: _____
- E. Estimated completion date: _____
- F. I acknowledge receipt of this document and understand I must prepare the record within the time limits prescribed by the Oklahoma Court of Criminal Appeals.

Date: 5-18-16 Darla Riley by R. Storm
Darla Riley, Court Reporter

Date: 5-18-16 R. Storm
Rebecca Storm, Court Reporter

V. NOTIFICATION OF COUNSEL, IF APPOINTED

NOTE: No Designation of Record shall be accepted for filing by the trial court clerk unless it contains one of the following:

- A. A signed acknowledgment from the court reporter(s) who reported proceedings in a case indicating receipt of the request for transcript(s), the date received, and completed financial arrangements, or an order of the trial court directing the case be prepared at public expenses; or, [For Supplemental Designation of Record, a signed certified mail return receipt card acknowledged by the court reporter(s), together with the attorney's certificate of mailing attached is sufficient for compliance.]
- B. A signed statement by the attorney preparing the designation of record stating that transcripts have not been ordered and a brief explanation of why. (example, I _____, attorney for the Appellant, hereby state that I have not ordered a transcript because: (1.) A transcript is not necessary for this appeal; (2.) No stenographic reporting was made.)

A true and correct certified copy of this Notice and Order and the Designation of Record were mailed this ____ day of May, 2016, to (check all that apply):

**(X) General Appeals Division, Oklahoma Indigent Defense System, P.O. Box 926,
Norman, OK 73070-0926;**

() Capital Direct Appeals Division, Oklahoma Indigent Defense System, P.O. Box 926,
Norman, OK 73070-0926;

() Public Defendant of Oklahoma County, 611 County Office Building, 320 Robert S.
Kerr Ave., Oklahoma City, OK 73102;

() Public Defendant of Tulsa County, 189 Courthouse, 500 S. Denver Ave., Tulsa, OK
74103.

() _____, private retained counsel.

Deputy/Court Clerk
Beckham County

Exhibit "A"

**IN THE DISTRICT COURT OF BECKHAM COUNTY
STATE OF OKLAHOMA**

STATE OF OKLAHOMA,)	CASE NO.: CF-2015-188
)	
Plaintiff,)	
)	
vs.)	
)	
KENNETH HAROLD TIBBETTS,)	
Defendant.)	

DESIGNATION OF RECORD FOR APPEAL

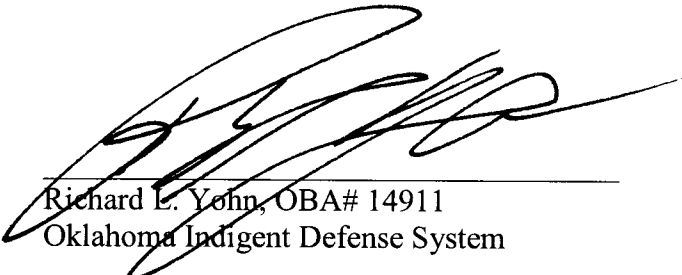
The Defendant, through appellate Counsel and pursuant to 22 O.S. 2001, §1362 and Court of Criminal Appeals Rule 2.1(B), designates the following as the appeal of record in this case:

1. **The entire district court file**, including the Information, Judgment and Sentence, all pleadings and motions filed, all court orders and minutes, and all other documents contained in the court file. **Please include a certified copy of the appearance docket.**
2. **Transcriptions of the following proceedings where a court reporter was present, or if a court reporter was not present transcripts of any tape recordings preserving such proceedings**, including but not limited to the following:

<u>Hearing</u>	<u>Date</u>	<u>Court Reporter</u>
(a) Plea	2/10/2016	Darla Riley
(b) Sentencing	5/11/2016	Darla Riley

3. **All documentary exhibits and photographs, audio cassettes, and video cassettes** entered into evidence, or offered as evidence, at any hearing or trial. Pursuant to Court of Criminal Appeals Rule 2.2(B), copies of documentary and photographic exhibits shall be attached to each copy of the transcript; an original and two copies shall be made of all electronic recordings.

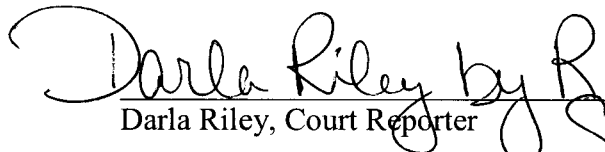
Date this 18 day of May, 2016.


 Richard L. Yohn, OBA# 14911
 Oklahoma Indigent Defense System

823 Frisco Ave., P. O. Box 1494
Clinton, OK 73601
580-323-2951 Fax: 580-323-0982
Rick.Yohn@oids.gov.ok
Trial Attorney for Defendant

**COURT REPORTER'S ACKNOWLEDGEMENT OF RECEIPT OF
DESIGNATION OF RECORD FOR APPEAL**

We acknowledge that on this 18 day of May, 2016, I received a copy of the Defendant's Designation of Record for Appeal, marked as Exhibit "A" in the above styled and numbered case, from trial counsel.



Darla Riley, Court Reporter



Rebecca Storm, Court Reporter

KENNETH H. TIBBETTS
PETITIONER,
v.
STATE OF OKLAHOMA,
RESPONDENT.

2015
CASE No. CF-2016-188

BECKHAM COUNTY
FILED
JUN 14 2023
DONNA HOWELL, COURT CLERK
BY _____ DEPUTY

REQUEST FOR CERTIFIED COPY OF MY NOTICE OF INTENT TO APPEAL THE
BECKHAM COUNTY DISTRICT COURT DECISION ON MY PAST CONVICTION

I AM REQUESTING A CERTIFIED COPY OF MY "NOTICE OF INTENT TO APPEAL"
THE DISTRICT COURT DECISION ENTERED ON MY PAST CONVICTION ON MARCH 29, 2023,
I RECEIVED THE DECISION HERE ON MARCH 31, 2023, I MAILED MY "NOTICE OF
INTENT TO APPEAL" THE DECISION TO THE BECKHAM COUNTY COURT CLERK ON
APRIL 10, 2023, FROM THIS FACILITY, THROUGH THE LAW LIBRARY.

I WILL NEED A CERTIFIED COPY OF MY "NOTICE OF INTENT TO APPEAL"
TO INCLUDE WITH MY PETITION IN ERROR TO THE OKLA. COURT OF
CRIMINAL APPEALS. I HAVE NEVER RECEIVED A CERTIFIED COPY OF
MY "NOTICE OF INTENT TO APPEAL" FROM BECKHAM COUNTY.

Kenneth H. Tibbetts
Kenneth H. Tibbetts, Petitioner
#122414
Joseph Harp Correctional Center
J Unit 202 B
P.O. Box 548
Lexington, OK 73051